

February 2, 1995

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Stuart N. Dolgin
House Counsel &
Secretary

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

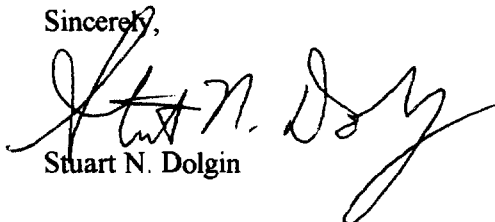
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FEB 3 1995
FEDERAL COMMUNICATIONS COMMISSION

Re: Reorganization and Revision of Parts 1, 2, 21 and 94 of the Rules to Establish a New Part
101 Governing Terrestrial Microwave Fixed Services
WT Docket 94-148

Dear Sir or Madam:

Submitted herewith is an original and five (5) copies of the Comments of Local Area
Telecommunications, Inc. in the above referenced docket. Please date stamp the extra copy and
return it to the undersigned in the enclosed stamped envelope.

Sincerely,


Stuart N. Dolgin

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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IN THE MATTER OF

REORGANIZATION AND REVISION OF
PARTS 1, 2, 21 AND 94 OF
THE RULES TO ESTABLISH A NEW
PART 101 GOVERNING TERRESTRIAL
MICROWAVE FIXED RADIO SERVICES

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RECEIVED
WT Docket 94-148
FEB 3 1995
FCC FILED

COMMENTS OF LOCAL AREA TELECOMMUNICATIONS, INC.

STUART N. DOLGIN
17 BATTERY PLACE, SUITE 1200
NEW YORK, NY 10004
(212) 509-5115

ATTORNEY FOR
LOCAL AREA TELECOMMUNICATIONS, INC.

February 2, 1995

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Reorganization and Revision of)	
Parts 1, 2, 21 and 94 of)	WT Docket No. 94-148
the Rules to Establish a New)	
Part 101 Governing Terrestrial)	
Microwave Fixed Radio Services)	

**COMMENTS OF
LOCAL AREA TELECOMMUNICATIONS, INC.**

Local Area Telecommunications, Inc. (LOCATE) hereby submits its Comments in the above referenced proceeding to reorganize and revise Parts 1, 2, 21 and 94 of the Commission's Rules and to establish a new Part 101 governing Terrestrial Microwave Fixed Radio Services¹. As discussed herein, LOCATE fully supports the Commission's efforts to reorganize and revise Parts 1, 2, 21 and 94 of the Rules and to create a new Part 101 in order to simplify the rules pertaining to common carrier and private operational fixed services. LOCATE strongly believes, however, the Rules update proposed by the Commission in this Notice will not allow the industry to operate as efficiently as possible. Accordingly, LOCATE recommends that the proposed Rule changes be modified to include rules that permit operation of radio stations pursuant to "Blanket Special Temporary Authority."

¹ Reorganization and Revision of Parts 1, 2, 21 and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services, Notice of Proposed Rule Making, FCC 94-314 (released December 28, 1994) ("Notice")

I. INTRODUCTION AND BACKGROUND

From the time that LOCATE installed its first common carrier point-to-point microwave system in 1983, it has been one of the Nation's leaders in the provision of digital microwave services. As one of the first service providers to construct and operate Digital Termination Service (DTS) systems and one of the pioneers in developing and testing Personal Communications Services (PCS)², LOCATE has extensive experience and knowledge of many radio-based technologies and services licensed by the Commission. Headquartered in New York City, LOCATE provides its digital microwave services to Fortune 500 companies, interexchange carriers and to cellular and paging companies. As a result of this extensive real-world experience, LOCATE is uniquely qualified to comment on the streamlining of rules to permit the microwave industry to operate efficiently to meet the urgent demands of users of common carrier microwave services.

In this proceeding, the Commission proposes to simplify the rules for common carrier and private operational fixed services, currently contained in Parts 21 and 94 respectively, and to consolidate those rules into a new Part 101. The stated purposes of the proceeding are to bring uniformity to the fixed microwave application processing procedures,³ update the Rules to allow the microwave industry to operate as efficiently as possible without being hampered by obsolete regulations⁴ and to eliminate unnecessary language.⁵

² LOCATE conducted extensive equipment and market tests in New York City pursuant to experimental authority granted by the Commission in 1990.

³ See Notice at para. 6.

⁴ See Notice at para. 7.

⁵ See Notice at para. 7.

II SIMPLIFYING THE RULES FOR COMMON CARRIER AND PRIVATE OPERATIONAL FIXED SERVICES IS IN THE PUBLIC INTEREST

LOCATE fully supports the Commission's objective in this proceeding of simplifying the rules for common carrier and private operational fixed services by consolidating and eliminating redundant and obsolete language. In particular, LOCATE agrees wholeheartedly with the elimination of several application showings that are currently required of common carrier microwave applicants, but which are not essential for the processing of these applications. The financial showing (Sections 21.13(a)(2) and 21.17), the public interest showing (Sections 21.13(4)(a) and 21.706(a), the submission of a copy of any franchise or other authorization (Section 21.13(f)) and the showing of control over radio station facilities (Section 21.13(g)) currently required under Part 21 applications are clearly not necessary for processing of applications. LOCATE believes that Rules requiring (1) that an applicant have the financial ability to construct and operate the proposed facilities, (2) that the application be in the public interest, convenience and necessity and (3) that the applicant obtain all applicable local authorizations eliminate the need for certifications and submissions with each application.

As far as Section 21.15 (e) (maintenance procedures) is concerned, LOCATE believes that while the inclusion of maintenance procedures may not be essential to the processing of applications, in the event that the applicant will not be maintaining its facilities, the applicant should attach an exhibit explaining how the facilities will be maintained. In either case, LOCATE believes that Item 18 of the FCC Form 494 should remain part of the application so that the Commission, if necessary, can contact someone directly responsible for the proper operation of the equipment.

The vertical profile sketch is not necessary since the information contained in the sketch is already contained in the application and LOCATE agrees with the Commission that this

requirement should be eliminated.⁶ Likewise, LOCATE has never had a problem with site availability and the removal of the certification of site availability will not adversely impact the processing of applications.⁷

LOCATE believes that existing rules concerning the posting of station authorization information (Section 21.201) provide all interested parties with necessary information regarding the operator of the facilities. LOCATE does not feel any changes are warranted in this area.

Finally, LOCATE believes that applicants should have the option to file applications electronically.

III UPDATING PART 21 AND PART 94 RULES TO ENABLE THE MICROWAVE INDUSTRY TO OPERATE EFFICIENTLY REQUIRES INCLUDING A PROVISION IN NEW PART 101 PERMITTING STATION OPERATION PURSUANT TO BLANKET SPECIAL TEMPORARY AUTHORITY

Simplifying the licensing process will ease the burden on both operators of microwave systems as well as Commission staff. However, these changes will in reality do nothing to improve the service to be provided to the end user customer. Without compromising the integrity of the frequency coordination process, applicants must be able to operate systems prior to obtaining permanent authorization.

The Commission has in the past recognized that the licensing process (frequency coordination through permanent authorization) is a lengthy one and has instituted a Rule Making to improve this situation.⁸ In that proceeding, Notice of Proposed Rule Making, CC Docket No. 93-2, the Commission proposed to allow the construction of facilities upon filing of a license application. In the instant proceeding, the Commission has apparently retreated from that concept

⁶ See Notice at para. 11.

⁷ See Notice at para. 11.

⁸ See Notice at footnote 11.

and will require that a license be granted prior to construction.⁹ As LOCATE stated in CC Docket No. 93-2, in order to permit carriers to respond more efficiently to growing user demand for rapid delivery of service, pre-authorization construction and operation are essential.

As stated above, LOCATE has been involved in the engineering, installation and operation of numerous microwave systems for more than a decade. LOCATE has participated in the rapid changes that have taken place during that time in this industry. Those changes have been largely driven by the evolving needs of users of microwave services. It has been LOCATE's experience that all of its customers demand service as quickly as possible. These customers typically require quick initiation of service in order to meet their own urgent need to respond to internal service requirements and strict service and business schedules.

As a practical matter, LOCATE's operations and engineering staffs have been able to install microwave systems in a matter of days. During the past decade, the average microwave installation has been completed within 10 business days. At the same time, consistent with other carriers' experiences, LOCATE has waited for periods as long as 150 days from the initiation of frequency coordination to grant of a license. In almost all cases, the substantial delay in receiving a license grant was a result of delays in administrative processing and not of technical or legal issues raised by the applications; there was no Commission staff inquiry concerning the applications, and the authorizations, when finally issued, were unconditional. While this situation has improved somewhat during the past year, LOCATE has still lost potential business because it could not implement service fast enough to meet a customer need.

While the Commission did not recommend construction prior to authorization in either the instant proceeding or CC Docket No. 93-2, the Private Radio Bureau (the "Bureau") recognized the need to meet customer demand could only be satisfied by permitting construction and operation

⁹ See proposed rule Section 101.63(f).

prior to the grant of permanent authorization. The Bureau, by letter (copy attached hereto as Exhibit A), established a new form of Special Temporary Authority called the Blanket Special Temporary Authority (the BSTA). The Bureau stated, "When you are issued a BSTA, the construction and operation of most of your Part 21 facilities can begin as soon as the underlying applications appear on public notice as accepted for filing." (Emphasis added) The Bureau even provided the exact format for the request for the BSTA.

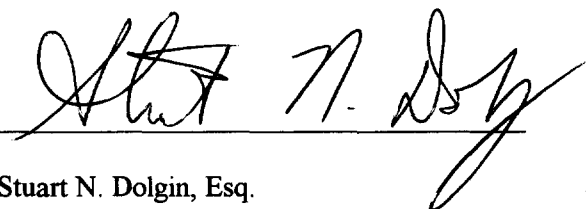
The BSTA has allowed LOCATE and other carriers to compete more effectively by enabling the rapid installation of microwave systems to meet the public need. It is LOCATE's belief that the proposed rules should be modified to provide for the BSTA under the strict terms and conditions imposed by the Bureau. The key aspect of the BSTA is that the integrity of the frequency coordination process is not compromised and at the same time the public interest, convenience and necessity are well served by the rapid installation of facilities.

IV CONCLUSION

For the foregoing reasons, LOCATE supports the proposed simplification and streamlining of Parts 21 and 94 of the Commission's rules and the creation of a new Part 101 in order to bring uniformity to the fixed microwave application processing procedures. LOCATE respectfully requests that the Commission codify the Private Radio Bureau's Blanket Special Temporary Authority within the proposed new Part 101 to allow construction and operation of facilities as soon as the underlying application appears on public notice as accepted for filing.

Respectfully submitted,

LOCAL AREA TELECOMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Stuart N. Dolgin", is written over a horizontal line. The signature is stylized with cursive-like flourishes.

Stuart N. Dolgin, Esq.

Date: February 2, 1995

EXHIBIT A

FEDERAL COMMUNICATIONS COMMISSION
1270 Fairfield Road
Gettysburg, PA 17325-7245

IN REPLY REFER TO:
7140-01

Dear Part 21 STA Applicant,

The Private Radio Bureau has established a new form of Special Temporary Authority called the Blanket Special Temporary Authority (BSTA). Only a single BSTA is required to cover most of your proposed operations subject to the conditions set forth in the BSTA (copy attached). When you are issued a BSTA, the construction and operation of most of your Part 21 facilities can begin as soon as the underlying applications appear on public notice as accepted for filing.

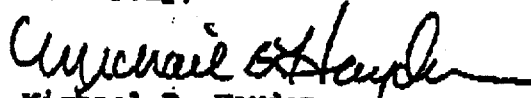
This is an important new service for you. Once your firm receives BSTA authority, it is no longer necessary to file separate STA requests, saving both you and the Commission valuable administrative and resource costs.

All requests for BSTA must be submitted in the exact format and language as is shown on the enclosed copy. Any request not submitted with the exact format and/or not using the exact language as set forth in the attached example will be returned without action. No changes, paraphrasing, additions or deletions of any type are permitted. The fee and the filing locations for a BSTA are the same as a regular STA.

Since you have filed for a Part 21 STA in the past, you can save time and money by promptly applying for a BSTA in the name of your parent or controlling legal entity. The comprehensive authority of the BSTA will enhance the ability of your partners, wholly owned or controlled subsidiaries and affiliates to quickly satisfy many of your communication requirements and meet customer demands.

The attached BSTA example may be duplicated and submitted as your request. If you are unclear as how to proceed or have questions, please contact me at 717-337-1421 prior to filing.

Sincerely,



Michael B. Hayden
Chief, Microwave Branch

[Date]

1. [Name of parent corporation]
2. [Mailing address to whom any correspondence or inquiries concerning the BSTA should be sent]
3. [Contact person to whom FCC inquiries concerning the BSTA should be addressed]
4. [Telephone number of contact person]
5. [FAX number of contact person]

Federal communications Commission
Common Carrier Domestic Radio
P.O. Box 358680
Pittsburgh, Pennsylvania 15251-5680

Attention: Mr. Michael B. Hayden

Dear Mr. Hayden:

Re: Request for Blanket Special Temporary Authority

_____, on behalf of itself and its wholly owned or controlled subsidiaries, its affiliates, and its partners, requests blanket special temporary authority (BSTA) to construct and operate common carrier point-to-point microwave radio systems at various locations within the United States until such time as a request for permanent authorization is acted upon by the Commission, such period not to exceed six months.

In support of our request, we certify the following:

1. BSTA would apply only to Part 21 stations for which an application has been accepted for filing by the Commission, and which has appeared on public notice in the document issued weekly by the Commission entitled "PRIVATE RADIO BUREAU PART 21 RECEIPTS AND DISPOSALS";

2. All operations conducted under the BSTA will be in exact accordance with an associated application(s) on file with the Commission with the exception of those minor modifications which may be made without prior notice to the Commission under Section 21.42 of the Commission's Rules. In the event that such modification(s) is made, the appropriate Form 494 will be timely filed with the Commission in accordance with Section 21.42(b)(3) of the Commission's Rules.

3. The associated application(s) will not have been dismissed, granted, or otherwise finally disposed of by the Commission. When the associated application(s) is finally disposed of by the Commission, the BSTA would cease to be effective with respect to that application(s);

4. The associated application(s) will not require a waiver of the Commission's rules;

5. The associated application(s) does not propose operation within 35 miles of any international border nor within a radio "Quiet Zone" and monitoring facilities, see Section 21.113 of the Commission's rules, 47 C.F.R. Sec. 21.113;

6. The antenna(s) is no more than twenty (20) feet above the ground or manmade structure other than a tower or pole, or is mounted on a structure that complies with an existing and approved Federal Aviation Administration Final Determination;

7. All proposed operations have been fully and successfully coordinated as required by Section 21.100 of the Commission's rules, 47 C.F.R. Sec. 21.100;

8. Operation under the BSTA will not cause interference. Should interference occur, we agree that operations will be terminated immediately;

9. We certify that no party to this application, including all of our subsidiaries, partners and affiliates which will operate under a BSTA, is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Sec. 853(a); and

10. The associated application(s) will have no significant impact on the environment as set forth in Section 1.1301, et seq. of the Commission's rules, 47 C.F.R. Sec. 1.1301.

It is of critical importance to our ability to compete effectively and/or to transact our business that we receive immediate authority to construct and operate common carrier microwave facilities. The BSTA will be effective for the period granted by the Commission and would cover applications which are filed during the effectiveness of the BSTA.

It is our understanding that if an applicant possesses BSTA authority, individual STA requests are unnecessary except under extraordinary circumstances. It is our further understanding that during operation under the BSTA, the Commission neither requires nor desires notification of completion of construction or commencement of operation unless we are otherwise directed by the Commission.

A copy of the BSTA and a copy of the associated application(s) will be maintained at the location(s) and in the manner required by

Section 21.201 of the Rules. We recognize and accept as a condition of grant of any BSTA that the Commission may at any time and without hearing or notice rescind that BSTA for any reason. We also accept that any operation conducted under authority of the BSTA is at our sole risk and that grant of a BSTA will not prejudice the outcome of action on any application(s) associated with the BSTA.

Our check in the amount of \$^{35.00}~~70.00~~ and completed FCC Form ¹⁵⁹~~155~~ are enclosed.

Sincerely,

[Signature]

[Title]

[Date]

Enclosures:

~~\$70-check~~ \$35.00

FCC Form ~~155~~ 159